



1 APPEARANCES:

2 KATHLEEN FIELD ORR & ASSOCIATES, by  
3 MS. KATHLEEN FIELD ORR  
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5 Suite 964  
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7 kfo@kfoassoc.com  
8 for the petitioner;

9 MR. DAVID GURITZ  
10 110 West Madison Street  
11 Yorkville, IL 60560  
12 on behalf of  
13 Kendall County Forest Preserve District;

14 ILLINOIS DEPARTMENT OF TRANSPORTATION, by  
15 MR. LAWRENCE D. PARRISH  
16 100 West Randolph  
17 Suite 6-600  
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20 for IDOT;

21 ILLINOIS COMMERCE COMMISSION, by  
22 MR. BRIAN A. VERCRUYSSSE  
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for ICC Staff - Rail Safety Section.

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I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re-direct</u>	<u>Re-cross</u>	<u>By Examiner</u>
David Guritz	16				

E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
None so marked.		

1 JUDGE KIRKLAND-MONTAQUE: By the power vested  
2 in me by the State of Illinois and the Illinois  
3 Commerce Commission, I now call Docket No. T16-0003  
4 for hearing. This is in the matter of the United  
5 City of Yorkville, Illinois, petitioner, versus the  
6 Illinois Railway and the Illinois Department of  
7 Transportation, and also we have OmniTrax as another  
8 respondent.

9 May I have appearance, please starting  
10 with petitioner?

11 MS. FIELD-ORR: Petitioner represented by  
12 Kathleen Field-Orr, City attorney, United City of  
13 Yorkville.

14 JUDGE KIRKLAND-MONTAQUE: Can we get your  
15 address, please?

16 MS. FIELD-ORR: 53 West Jackson, Suite 964,  
17 Chicago, Illinois 60604.

18 JUDGE KIRKLAND-MONTAQUE: And do you have a  
19 representative?

20 MS. FIELD-ORR: My witness to testify is  
21 Mr. David Guritz of the Kendall County Forest  
22 Preserve.

1                   Go ahead, Mr. Guritz.

2           MR. DAVID GURITZ: My corporate address is 110  
3 West Madison Street, Yorkville, Illinois 60660.

4           JUDGE KIRKLAND-MONTAQUE: Okay. And IDOT?

5           MR. PARRISH: Lawrence Parrish, Office Of Chief  
6 Counsel IDOT. My address is -- we just moved. It's  
7 69 West Washington, Suite 2100, Chicago, 60602.

8           JUDGE KIRKLAND-MONTAQUE: Staff?

9           MR. VERCRUYSSSE: Brian Vercruysse, V, as in  
10 Victor, e-r-c-r-u-y-s-s-e, representing the Rail  
11 Safety Section of the Illinois Commerce Commission.  
12 My phone number is, (312) 636-7760. Thank you.

13          JUDGE KIRKLAND-MONTAQUE: Ms. Field-Orr, would  
14 you like to --

15                   Let me swear the witness in.

16                               (Witness sworn.)

17          JUDGE KIRKLAND-MONTAQUE: Okay. You may  
18 proceed.

19          MS. FIELD-ORR: Yes, your Honor. We are here  
20 today with a petition requesting the assignment of an  
21 ARR rail crossing number for Hoover Road, a public  
22 right of way, including permission to install an

1 active warning device.

2 We are looking to have this area  
3 designated as a public crossing due to the use by the  
4 County Forest Preserve District as a recreational  
5 area. There are many people going forth on this  
6 roadway into the Forest Preserve District; and for  
7 that reason, we need to provide the public with a  
8 safe passage way.

9 It was previously designated as a  
10 private roadway. It is my understanding that a plat  
11 now is prepared and has been filed designating this a  
12 public right of way. And the United City of  
13 Yorkville has agreed to take jurisdiction as a public  
14 entity of the site.

15 And so what I'd like to do is have my  
16 witness testify and explain to you why we need these  
17 changes to the area due to the usage of the Hoover  
18 Forest Preserve.

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1                               DAVID GURITZ,  
2       called as a witness herein, having been first duly  
3       sworn, was examined and testified as follows:  
4               WITNESS GURITZ:   The Forest Preserve District  
5       of Kendall County acquired this property from the Boy  
6       Scouts of America Chicago Area Council in order to  
7       preserve, protect, and establish recreational and  
8       educational programming at the site.   This was  
9       accomplished in 2004, and the site has been active --  
10      or growing in activity, really, for the past 4 or 5  
11      years.

12                      As part of our deliberations at our  
13      meeting I was asked to prepare information related to  
14      our public visitation.   Since the Forest Preserve  
15      District acquired the site we've constructed new bunk  
16      houses, which are for overnight accommodations.   We  
17      can accommodate 32 individuals inside of those units  
18      each night.

19                      We have some additional primitive  
20      screened cabins that can accommodate more  
21      individuals.   We have family camp sites and group  
22      camp sites.   All of those accommodate overnight

1 visitors. We also have a nature preschool operating  
2 out of Hoover Forest Preserve, environmental  
3 education programs that are offered by the District,  
4 environmental education programs that are offered by  
5 the Kendall Grundy regional Office of Education.

6 We have a lodge. We've constructed a  
7 lodge facility that hosts anywhere from 100 to 140  
8 individuals per event. We're seeing quite a growth  
9 in the number of rentals taking place, including the  
10 evening hours.

11 And so as we look at this crossing  
12 area, our biggest concern is for public safety. We  
13 have literally thousands -- my estimates are anywhere  
14 between 71 and 83,000 individuals a year that are  
15 coming into this forest preserve. This includes  
16 public visitors. We see bikers, hikers, equestrians.  
17 It's becoming quite a popular destination for  
18 horseback riding and folks of all walks of life  
19 coming in and enjoying this. We have our local  
20 little league out of Yorkville. They hold practices  
21 and games. And, again, those are all different hours  
22 approaching sunset.



1                   And so what we've seen is tremendous  
2   growth and opportunity for our local and  
3   out-of-county residents in the region. And we feel  
4   that at this point crossing improvements are  
5   necessary for their safety.

6                   A little bit on that history is we  
7   were notified that there were federal funds available  
8   for those improvements. That kind of started the  
9   ball rolling. We contacted Yorkville and asked that  
10  they assume jurisdiction over the section of road  
11  leading up to and crossing beyond the tracks of the  
12  Illinois Railway crossing.

13                  That jurisdictional transfer has been  
14  completed. And at this point we're here pursuing the  
15  petition to establish this site as a public crossing.  
16  The public agency -- there are two public agencies  
17  that are now associated with this particular  
18  recreational area.

19                 JUDGE KIRKLAND-MONTAQUE: Okay. Do you know  
20  what the process is, in terms of getting a -- the  
21  federal process for getting an inventory number  
22  assigned? Would the Commission have to grant

1 authority first before you could seek that  
2 designation? Do you know?

3 MR. VERCRUYSSSE: I can answer that, your Honor.  
4 Any crossing in the United States, whether it's  
5 public or private, is supposed to have a US-DOT  
6 inventory number.

7 The problem that we have with the  
8 current Hoover Road crossing is that the number that  
9 was assigned to it is actually the number for a  
10 pedestrian underpass that is just about a hundred  
11 feet away from this crossing.

12 So the Illinois Railway, or OmniTrax,  
13 should file with the Federal Railroad Administration  
14 seeking a new number for the at-grade crossing. And  
15 with that filing and Commission order, it would be  
16 the determination of whether it's public or private.

17 Currently, as was stated, the plat and  
18 legal description was completed identifying Hoover  
19 Road as a public roadway up to a point. And I  
20 believe that the ordinance was awaiting the  
21 Commission's authorization, which is the standard  
22 practice.

1                   So they can seek at any time the  
2   US-DOT inventory for the at-grade crossing; but then  
3   in turn it comes down to the public designation  
4   pending the Commission's authorization.

5           JUDGE KIRKLAND-MONTAQUE:   I see.   Thank you.

6           MR. VERCRUYSSSE:   Thank you.

7           JUDGE KIRKLAND-MONTAQUE:   Mr. Parrish, do you  
8   have any questions or comments about the proposal?

9           MR. PARRISH:   No, your Honor, we do not.

10          JUDGE KIRKLAND-MONTAQUE:   Does IDOT have any  
11   objection?

12          MR. PARRISH:   No.   As a matter of fact, we're  
13   in support of the project, your Honor.   IDOT's role  
14   in this is that we've programmed money for upgrading  
15   the lights and gates.   And that's pretty much the  
16   extent of our involvement.

17          JUDGE KIRKLAND-MONTAQUE:   Okay.   Staff, do you  
18   have any statements or questions for the witness?

19          MR. VERCRUYSSSE:   We do have a statement.   I can  
20   present Staff's position and a little more history,  
21   if that would be acceptable to you?

22          JUDGE KIRKLAND-MONTAQUE:   Okay.

1                   Were you finished? I'm sorry. I  
2     didn't mean to interrupt you if you were not.

3               WITNESS GURITZ: Sure. Sure. And thank you  
4     for hearing our petition.

5               JUDGE KIRKLAND-MONTAQUE: Mr. Vercruysse, you  
6     may proceed with your statement.

7               MR. VERCruysse: Thank you, your Honor.

8                   The Hoover Road crossing, and the  
9     Forest Preserve District property, and the public use  
10    that was occurring over the crossing was first  
11    brought to the attention of our office over a year  
12    ago as a complaint and an inquiry into the safety of  
13    the crossing.

14                   At that time, Staff had recommended  
15    that the United City of Yorkville and the Kendall  
16    County Forest Preserve District work together to  
17    designate a roadway for public use so that it would  
18    come under the Commission's jurisdiction. And this  
19    was based upon the fact that there is such a great  
20    number of public users at the crossing, whether it's  
21    the baseball little league, the daycare that's run at  
22    the facility, the rental camp sites, and the

1 potential for patrons to be going in at all different  
2 hours.

3                   So with that, Yorkville and the Forest  
4 Preserve District have reached their agreements. The  
5 petition was filed early in 2016. We attempted to  
6 have the first hearing, and I think notices have kind  
7 of gotten mixed up. But since that time, on June  
8 16th of 2016, the parties met at the Hoover  
9 recreational site at the Forest Preserve District,  
10 and that included representatives from Illinois  
11 Railway. It was their manager -- or road manager for  
12 the area, Mr. Aaron Steele (phonetic).

13                   And I'd just like to state for the  
14 record that on numerous occasions Staff has met with  
15 Illinois Railway discussing the project and asking  
16 for their input into the case and docket. We haven't  
17 seen anything at this time, but we have not heard any  
18 objection from the railway either.

19                   Most recently, on Tuesday, June 21st,  
20 I had provided to all of the parties a summary of  
21 that meeting that was held on the 16th, and it  
22 included different items for moving the project

1 forward and the case forward. And two of the items  
2 identified for Illinois Railway to complete was the  
3 need for a cost estimate for upgrading the warning  
4 system to automatic flashing light signals and gates.  
5 And we had also identified that the Railway's  
6 attorney needed to file an appearance in the  
7 Commission case, in this docket, and appear at the  
8 July 6th hearing today, or file a response to the  
9 petition. We haven't seen anything to date.

10 In total, Staff supports the crossing  
11 being updated, or upgraded, with warning devices and  
12 established as a public crossing. We have worked  
13 with the parties on an agreed order. It's in draft  
14 stage waiting for the conclusion of this hearing.  
15 But without the Railway here, I would like to modify  
16 that to a proposed order and request certain items be  
17 taken care of, that the cost estimate be provided  
18 within 60 days of the hearing, and any objections or  
19 concerns be provided also. And then Staff lists that  
20 the time frame for completing this project is 12  
21 months from the date of the order.

22 After that I have a few pictures or

1 other things if you'd like to see them at this point.  
2 Otherwise, I do believe that the petitioner should  
3 file the plat and legal description so this it's a  
4 part of the record.

5 JUDGE KIRKLAND-MONTAQUE: Are they not a part  
6 of the petition?

7 MR. VERCRUYSSSE: There's an aerial location,  
8 but it was not...

9 JUDGE KIRKLAND-MONTAQUE: Submitted?

10 MR. VERCRUYSSSE: It really wasn't the legal  
11 description of the plat. It was just kind of showing  
12 the location based upon a GPS system, I believe.

13 WITNESS GURITZ: Yeah, that's correct.

14 MR. VERCRUYSSSE: So it is available. We do  
15 have it. I can do it as a late filing or an exhibit  
16 attached to the proposed order and file the proposed  
17 order, if that would be acceptable.

18 JUDGE KIRKLAND-MONTAQUE: Well, why don't you  
19 file it as a late-filed exhibit? I'll leave the  
20 record open at the end of the hearing to allow you to  
21 file that exhibit. You will need to do a proposed  
22 order, given that one of the parties isn't present

1 and hasn't filed an appearance.

2 I had a question for you, and now I  
3 can't remember it...

4 Okay. Then you'll file a proposed  
5 order at a later date?

6 MR. VERCRUYSSSE: Right. I don't know if this  
7 helps, but my history with Illinois Railway and  
8 OmniTrax in past cases is it was very difficult  
9 getting them to appear also. It wasn't until -- and  
10 this was a citation matter. It wasn't until there  
11 was a potential finding being levied that counsel  
12 appeared and cleared it up. I don't see any  
13 objection, but they're priorities don't seem to be in  
14 line right here with the project at the moment.

15 JUDGE KIRKLAND-MONTAQUE: I understand. But  
16 for the sake of due process, we'll do a proposed  
17 order and give them the opportunity to respond.  
18 Assuming there will be no objection or anything of  
19 that nature, it should proceed pretty quickly through  
20 the Commission.

21 Is there anything else that anyone  
22 would like to add today?



1 (No response.)

2 JUDGE KIRKLAND-MONTAQUE: Okay. So what we'll  
3 do -- as I said, I'll leave the record open to allow  
4 for the filing of those exhibits as late-filed  
5 exhibits, and I'll await the draft order and then  
6 issue it as a proposed order. And then we'll move  
7 forward from that point.

8 Oh, I know what the question was. I  
9 did have a question. And that is, What's the amount  
10 of train traffic at this crossing? Do you know?

11 MR. VERCRUYSSSE: It's usually two trains per  
12 day. It's a lower volume, but it's one in the early  
13 morning and one towards the evening, I believe.

14 JUDGE KIRKLAND-MONTAQUE: Okay. I was just  
15 curious. So the speed is relatively low?

16 MR. VERCRUYSSSE: It's up to 20 miles per hour,  
17 generally.

18 JUDGE KIRKLAND-MONTAQUE: Okay. I was just  
19 curious.

20 All right. Thank you for coming.  
21 And, again, I'm going to leave the record open. And  
22 when I get that late-filed exhibit, I will mark the

1 record heard and taken, and we will move forward at  
2 that point to present it to the Commission for  
3 approval. So thank you. That's all. Thank you.

4 SINE DIE.

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